

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Starace	Team: Team # 8	CCRB Case #: 200906357	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/17/2009 2:00 AM	Location of Incident: Lexington Ave & 98th St.	Precinct: 23	18 Mo. SOL 10/17/2010	EO SOL 10/17/2010	
Date/Time CV Reported Tue, 04/21/2009 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/27/2009 1:26 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Brandi Sanchez	10680	935685	023 PCT
2. POM Ramiro Ruiz	07987	939384	023 PCT
3. SGT Timothy Skretch	02114	926130	023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Marcelino Alvarez	26122	937973	023 PCT
2. POM Gilberto Ortiz	26667	933580	023 PCT
3. POM Lukas Kyriannis	28036	932871	023 PCT
4. POF Rafaela Rosario	10172	929454	023 PCT
5. POM David Gonzalez	00438	932728	023 PCT
6. POM Keno Chambers	09494	938208	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Timothy Skretch	Abuse: Sgt. Timothy Skretch stopped § 87(2)(b)	
B.POM Ramiro Ruiz	Abuse: PO Ramiro Ruiz searched § 87(2)(b) vehicle.	
C.POM Ramiro Ruiz	Abuse: PO Ramiro Ruiz refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)	
D.POF Brandi Sanchez	Abuse: PO Brandi Sanchez refused to provide her name and shield number to § 87(2)(b) and § 87(2)(b)	

Case Summary

On April 21, 2009, § 87(2)(b) called IAB to file a complaint. That complaint was forwarded to the CCRB on April 27, 2009.

On April 17, 2009, at approximately 2:00 am, § 87(2)(b) and § 87(2)(b) were arrested in a parking lot at the intersection of Lexington Avenue and 98th Street in Manhattan for § 87(2)(b). The officers involved with the arrest were from the 23rd Precinct.

The following allegations resulted from the officers' actions:

- **Allegation A – Abuse of Authority:** § 87(2)(g)

- **Allegation B – Abuse of Authority:** § 87(2)(g)

- **Allegation C – Abuse of Authority:** § 87(2)(g)

- **Allegation D – Abuse of Authority:** § 87(2)(g)

Results of Investigation

Civilian Statement(s)

Victim: § 87(2)(b)

- § 87(2)(b)

Interview Statement

On April 17, 2009, at approximately 2:00 AM, § 87(2)(b) was with eight of his friends in a parking lot at 98th Street and Lexington Avenue. They had been there for several hours. The parking lot is owned by the Lexington Housing Development, which is part of NYCHA. § 87(2)(b) lives in the development and uses the parking lot to park his car. § 87(2)(b) was not aware of anyone smoking marijuana at the scene. § 87(2)(b) himself had not been smoking marijuana and, as a rule, does not smoke marijuana because he has to take drug tests for his work. § 87(2)(b) and his friends were sharing cigarettes because they don't regularly smoke and so they didn't want to smoke a whole cigarette. All but two of the people present were sharing cigarettes. After finishing the cigarettes, § 87(2)(b) then moved his car, which was a few car-lengths away, so that it was parked directly next to the flagpole. § 87(2)(b) turned on some music from the speakers of his car.

§ 87(2)(b) was standing next to his car when four police cars pulled up rapidly (**Allegation A**). One was a marked van, one was a taxi cab, one was a gray Impala and one was a marked patrol car. § 87(2)(b) did not mention the taxi cab later in the interview and later in the interview said that only two of the four cars pulled up initially. The cars parked approximately

fifteen feet from § 87(2)(b) and his friends. PO1, identified as PO Ramiro Ruiz, got out of the Gray Impala. § 87(2)(b) didn't know if there was another officer in the Impala. PO2 and PO3, identified as PO Brandi Sanchez and PO Lukas Kyriannis, got out of the marked RMP.

One of the officers told § 87(2)(b) that someone had witnessed the group by the flagpole smoking marijuana and that they had been watching them for hours. PO Ruiz went to § 87(2)(b) car and opened every compartment, including the glove compartment, but PO Ruiz did not break or tear anything in the car (**Allegation B**). PO Ruiz took § 87(2)(b) PBA card, both the one he had taped to his car and, later, the one he had kept in his wallet. The PBA cards were not returned.

§ 87(2)(b) asked PO Ruiz and PO Sanchez for their names. § 87(2)(b) was being handcuffed when he was making these requests. PO Sanchez was placing the handcuffs on him and PO Ruiz was standing about six feet from § 87(2)(b). PO Ruiz and PO Sanchez would not tell him their names (**Allegations C and D**). § 87(2)(b) made a request for their names between one and three times. § 87(2)(b) described his attitude as respectful.

§ 87(2)(b) arrived as § 87(2)(b) was being placed in the police van. § 87(2)(b) asked PO Ruiz what was going on and PO Ruiz told him to get out of the way. PO Ruiz moved his father to the side rather than answering his questions. § 87(2)(b) was not specific as to how this was done.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

§ 87(2)(b)

Interview Statement

On April 17, 2009, at approximately 2:00 AM, § 87(2)(b) approached the location at 98th Street and Lexington Avenue and saw a police van and a group of individuals, including his son, § 87(2)(b) A. Sostre Jr, lined up in handcuffs. § 87(2)(b) approached his son.

§ 87(2)(b) asked PO1, identified as PO Brandi Sanchez what was happening and why his son was being arrested. PO Sanchez told him to move out of the way. § 87(2)(b) identified himself as a parent of one of the arrested individuals. PO Sanchez again told him to move.

PO2, identified as PO Ruiz, approached and told § 87(2)(b) to move. PO Ruiz pushed § 87(2)(b) with one open hand with a level of force about 4 or 5 out of 10. Because of the push, § 87(2)(b) stepped back one step.

§ 87(2)(b) asked for PO Sanchez's name and shield. PO Sanchez moved so § 87(2)(b) couldn't see her shield number. § 87(2)(b) asked for her name and shield number approximately four times. § 87(2)(b) was not able to position himself so he could see her badge and she would not answer his question (**Allegation D**). § 87(2)(b) asked PO Ruiz for his name at least three times and PO Ruiz said, "I ain't got a name." (**Allegation C**) Neither PO Sanchez nor PO Ruiz would give § 87(2)(b) their name or shield numbers.

PO Ruiz took a PBA card that was stuck to the windshield of § 87(2)(b) car. § 87(2)(b) asked PO Ruiz if he could have the card back. PO Ruiz laughed and said, "No, you're not getting it back. It's mine now."

Witness: § 87(2)(b)

• § 87(2)(b)

She was interviewed via telephone on June 23, 2009, but refused to come to the CCRB.

Interview Statement

On April 17, 2009, at Lexington Avenue and East 98th Street in Manhattan, at 2:00 AM, a beige-caramel Chevy Impala approached. PO1 and PO2, identified as PO Ruiz and PO Rafaela Rosario got out of the vehicle. The officers stated, "Freeze!" The people in the parking lot did so. § 87(2)(b) claimed that PO Rosario then took out her gun and pointed it at her; however, § 87(2)(b) stated that she did not witness this - § 87(2)(b) was not looking in the direction of PO Rosario when the gun was drawn and pointed, but she was told about it later.

PO Ruiz and PO Rosario held the people in the parking lot for approximately thirty minutes, before more officers arrived. Once more officers arrived, all of the people in the parking lot were arrested and brought to the station house.

§ 87(2)(b) stated to the CCRB that she did not have a complaint about the incident because she was "only given probation" as a result of it; § 87(2)(b) refused to come to the CCRB to make an in-person statement.

Attempts to Contact Civilians

§ 87(2)(b) and § 87(2)(b) were also arrested during the incident.

§ 87(2)(b) missed scheduled appointments on July 13 and 21, 2009. He was therefore considered uncooperative.

§ 87(2)(b) was sent letters on June 17 and 24, 2009, to his address found in the DMV database. These letters were returned. Additional letters were sent on June 30 and July 8, 2009, to an address found in Cole Information Directory that may be associated with § 87(2)(b). These letters were not returned. In an attempt to find a phone number for § 87(2)(b) a Verizon subpoena was generated and 411.com and whitepages.com were used. These did not provide positive results. Between July 15 and 17, 2009, several numbers found in Cole Information Directory were called, with similarly unsuccessful results. § 87(2)(g)

§ 87(2)(b) was sent letters on June 17 and 24, 2009. In an attempt to find a phone number for her, a Verizon subpoena was generated and 411.com and whitepages.com were used. These did not provide positive results. On June 29, 2009, § 87(2)(b) told the undersigned that § 87(2)(b) had left New York City and was working for § 87(2)(b). § 87(2)(g)

NYPD Statement(s):

Subject Officer: SGT TIMOTHY SKRETCH

- *Sgt. Skretch was § 87(2)(b) years old at the time of the incident. He is a white male with brown hair and blue eyes. He is 6'0" tall and weighs 225 pounds.*
- *Sgt. Skretch worked from 10:57 PM on April 16, 2009 to 7:54 AM on April 17, 2009. He was in plainclothes. He was assigned to an observation post as part of a SNEU set. He was on foot and working alone.*

Complaint Report

Complaint report number § 87(2)(b) states that on April 17, 2009, at 1:55 am, at the corner of Lexington Avenue and East 98th Street, "Deft #1 § 87(2)(b) was observed pass a lit

marijuana cigarette to deft #2 § 87(2)(b) deft #2 passed the lit marijuana cigarette to deft #3 (Sostre § 87(2)(b) Deft #3 passed the lit marijuana cigarette to deft #4 § 87(2)(b) Deft #4 passed the lit marijuana cigarette to deft #5 § 87(2)(b) Deft #5 passed it back to Deft #1. Deft #5 was also in possession of drug paraphernalia.” This narrative was written by Sgt. Skretch.

Interview Statement

Sgt. Skretch was at an observation post, on top of an unspecified building that looked onto the parking lot between East 98th Street and East 99th Street on Lexington Avenue. Sgt. Skretch was using binoculars to make his observations. Though it was late at night, the area Sgt. Skretch was observing was lit by a streetlight. Sgt. Skretch observed approximately ten people (when the crowd was at its biggest) standing around a flagpole in the parking lot, drinking what he believed to be alcohol. Some of the people came and left the location. He believed the individuals were drinking alcohol because they had a big black bag that held what appeared to be a liquor bottle and the individuals would go behind a vehicle and pour the liquid into small, clear plastic cups.

After Sgt. Skretch had been watching the crowd for approximately fifteen minutes, two females arrived. One was short and was wearing pink pants. This female, identified through investigation as § 87(2)(b) took a ziplock baggie out of the front of her pants waistband. The other female, identified through investigation as § 87(2)(b) assisted § 87(2)(b) in putting the substance from the baggie into cigar rolling paper, which § 87(2)(b) then sealed by licking. Then the pair lit the cigar and began smoking it and passing it around to four or five other individuals. Based on his training, Sgt. Skretch believed the cigar could have contained marijuana, so he called his apprehension team (whom he believed was PO Rosario and PO Ruiz) and alerted them of the incident. Sgt. Skretch did not himself arrive at the location.

Subject Officer: PO RAMIRO RUIZ

- *PO Ruiz was § 87(2)(b) years old at the time of the incident. He is a Hispanic male with black hair and brown eyes. He is 6'0" tall and weighs 240 pounds.*
- *PO Ruiz worked from 10:35 pm on April 16, 2009 to 7:10 am on April 17, 2009. He was in plainclothes. He was assigned to a SNEU set. He believed he was working with PO Rafaela Rosario. PO Ruiz was assigned to a motor vehicle, which was an unmarked silver or gray Chevy Impala with the number 837.*

Interview Statement

PO Ruiz had a limited recollection of the incident. Sgt. Timothy Skretch was on the roof of a building with a view of the incident location. Sgt. Skretch had seen via observation approximately 10 people, mixed females and males, who were smoking marijuana and drinking alcohol. Sgt. Skretch radioed PO Ruiz and told him which of the individuals to place under arrest for marijuana.

PO Ruiz and PO Rosario drove up in their vehicle to the location along with a marked police van that served as the prisoner van. The individuals were sitting on a round area surrounding a light pole. When PO Ruiz arrived, one of the females present placed marijuana in her crotch area, down her pants. A second female attempted to hide marijuana in her purse. A third individual tried to hide an open bottle behind the wheel of a parked, locked car. PO Ruiz, along with the other officers on the scene, then placed the individuals under arrest. PO Ruiz did not recall who specifically was placed under arrest because he did not have a good recollection of the incident. PO Ruiz stated that the marijuana was recovered, but he did not know who recovered the material. PO Ruiz did not know if he spoke with any of the arrested males at the location.

During the incident an unmarked Crown Victoria arrived at the location. The Crown Victoria was from another command, but had stopped because it had seen a number of police officers and civilians at the location. PO Ruiz did not know what command the unmarked Crown Victoria was from and did not know any of the officers inside. These officers did not get involved in the arrest.

PO Ruiz did not recall if any of the cars at the location belonged to any of the civilians at the locations. PO Ruiz did not see any officer search any cars at the location, nor did he himself do so.

PO Ruiz did not recall anything having to do with a PBA card. PO Ruiz did not confiscate any PBA cards at the location. PO Ruiz was not aware that there were any PBA cards at the location. PO Ruiz did not tell any individual, with regard to a PBA card, "It's mine now," nor did PO Ruiz hear another officer say something to that effect.

PO Ruiz did not recall any individual at the location asking him for his name and shield. PO Ruiz did not hear any individual request the name and shield of any other officer at the location. PO Ruiz did not tell anyone, when asked for his name, "I ain't got a name."

When § 87(2)(b)'s photograph was shown to PO Ruiz, PO Ruiz had no recollection of him. When § 87(2)(b)'s physique was described to PO Ruiz, he could still not recall interacting with him. PO Ruiz did not have to physically move any individuals at the location

Subject Officer: PO BRANDI SANCHEZ

- *PO Sanchez was § 87(2)(b) years old at the time of the incident. She is a Hispanic female with brown hair and brown eyes. She is 5'1" tall and weighs 120 pounds. .*
- *PO Sanchez worked from 11:35 PM on April 16, 2009 to 7:10 AM on April 17, 2009. She was in plainclothes, but did not recall what she was wearing. She was assigned to the prisoner transport van of a SNEU operation. She did not recall who her partners were.*

Interview Summary

PO Sanchez heard radio communications for a large group of individuals who were drinking and smoking at East 98th Street and Lexington Avenue. PO Sanchez was called to the location after the officers already at the scene had realized that a number of people were going to be arrested. PO Sanchez believed ten or so individuals were arrested at the location. There were a large number of officers also present at the location.

When PO Sanchez arrived, all the individuals who were placed under arrest had already been arrested or were in the process of being arrested. A secondary investigation was going on. The officers were looking for a firearm. PO Sanchez began searching the area for arrest evidence. She searched the nearby bushes and underneath a car. She did recover between 200-400 ziplock baggies that are commonly used in the sale of narcotics. She found those underneath the tire of a car that was near the arrest location, but not immediately next to it. PO Sanchez further stated that an individual was upset about a particular car being searched, but when she arrived, that car had already been searched – she was searching around other nearby vehicles. The searched car had been moved back and forth several times by the individual before the officers arrived.

PO Sanchez did not recall having any conversations with anyone about her name and shield. PO Sanchez did not hear § 87(2)(b) asking any other officers for their name and shield.

PO Sanchez did recall § 87(2)(b) being on the scene. He was leaning on the police van. PO Sanchez told him to stop leaning on the van so the officers could drive away. § 87(2)(b) took a long time to move, but did move away from the van. No one physically touched § 87(2)(b) did not ask PO Sanchez for her name and shield. PO Sanchez could not say if § 87(2)(b) asked any other officers for their name and shield.

PO Sanchez said that she did recall an individual at the location with a PBA card and that card may have been in the window of a car. PO Sanchez did not know if any officer confiscated a PBA card at the scene.

Witness Officer: PO RAFAELA ROSARIO

- *PO Rosario was § 87(2)(b) years old at the time of the incident. She is a Hispanic female with brown hair and brown eyes. She is 5'9" tall and weighs 145 pounds.*
- *PO Rosario worked from 11:35 PM on April 16, 2009 to 7:10 AM on April 17, 2009. She was in plainclothes, but did not recall what she was wearing aside from jeans and tennis shoes. She was assigned to the "catch" car of SNEU set. The car number was 837. Her partner was PO Ruiz.*

Interview Statement

During a SNEU set, PO Rosario's sergeant, Sgt. Timothy Skretch, radioed to PO Rosario that he had observed five or six individuals by the parking lot for Lexington Houses at 98th Street and Lexington Avenue, and that the individuals were smoking marijuana.

PO Rosario responded to the location and placed two females (identified through investigation as § 87(2)(b) and § 87(2)(b) under arrest. The "p-van" also arrived at the location. PO Rosario stated there were also males at the location who were arrested, but that she did not assist in the arrest of the males. PO Rosario did not recall interacting with any males during the incident.

PO Rosario remembered that there was a heavy-set individual at the location. She remembered that because the officers had needed more than one handcuff to handcuff that individual. When shown a photograph of § 87(2)(b) PO Rosario said that he did not look familiar. When shown a photograph of § 87(2)(b) PO Rosario stated that he did not look familiar.

PO Rosario did not recall any officers searching a vehicle at the location. PO Rosario did not recall any discussion about a PBA Card. PO Rosario did recall one of the females asking for her name. PO Rosario told the female her name.

Witness Officer: PO Lukas Kyriannis

- *PO Kyriannis was § 87(2)(b) years old at the time of the incident. He is a white male who is bald and has brown eyes. He is 5'9" tall and weighs 230 pounds.*
- *PO Kyriannis worked from 10:35 pm on April 16, 2009 to 7:10 am on April 17, 2009. He was in plainclothes, but was wearing an NYPD tactical jacket over the plainclothes. He was assigned to a marked prisoner van in the SNEU set. The van was number 5818. PO Kyriannis worked with PO Brandi Sanchez, who was also wearing an NYPD tactical jacket over plainclothes.*

Interview Statement

PO Kyriannis and PO Sanchez were notified of a group of individuals passing around a marijuana cigarette at 98th Street and Lexington Avenue, which is a parking lot. Because PO Kyriannis and PO Sanchez were operating a marked vehicle, they did not immediately go to the location, since it would make it obvious that officers were approaching.

Another vehicle (PO Kyriannis did not know which) arrived at the location. Once a determination to make arrests was made, PO Kyriannis and PO Sanchez were called to the location. PO Kyriannis effected the arrest of at least § 87(2)(b) but was not sure if he effected the arrests of any other individuals.

When PO Kyriannis arrived at the scene, there were already a few officers there. A few of the arrestees for this incident were upset, saying “I’ll take a drug test right now,” and “I didn’t do it,” but this was a normal level of upset and nothing unusual. PO Kyriannis let them vent for a few minutes. After that, PO Kyriannis described his rapport with the prisoners as good and stated that there were no shouting matches or anything of that nature. He stated that the process of placing the prisoners in the van and taking them to the precinct was unremarkable.

Marijuana was recovered at the location. PO Kyriannis believed that marijuana in a baggy was vouchered to § 87(2)(b) but he was not positive. PO Kyriannis believed that other contraband was recovered at the location, but PO Kyriannis was not positive about this either.

PO Kyriannis did not know if any contraband was recovered in any of the arrestee’s vehicles, but stated that that would have happened before he arrived. PO Kyriannis initially stated that he did not see any vehicles directly next to the arrest location. However, PO Kyriannis’ memory was jogged when the incident was described in a bit more detail:

PO Kyriannis did recall a substantially overweight man, who was the father of one of the arrestees, being at the location. The investigation has determined that this was § 87(2)§ 87(2)(b) whose son, § 87(2)(b) was under arrest. § 87(2)(b) wanted PO Kyriannis to give his father his car keys because he had a large black SUV parked at a strange angle, illegally, next to the arrest location. § 87(2)(b) wanted his father to move the car so it wouldn’t get a ticket. PO Kyriannis gave § 87(2)(b) the car keys so that he could do so.

§ 87(2)(b) never asked PO Kyriannis for his name and shield. PO Kyriannis did tell § 87(2)§ 87(2)(b) that if he had any questions, his son would be at the 23rd Precinct Station House and that he could get the questions answered there.

§ 87(2)§ 87(2)(b) kept coming closer to the officers as the prisoners were being put in the van. § 87(2)(b) was repeatedly told that he should go to the Station House to get more information. PO Kyriannis did not have to make any physical contact with § 87(2)§ 87(2)(b) to prevent him from interfering with the arrest. PO Kyriannis did not recall any other officers speaking with § 87(2)(b).

PO Kyriannis stated that § 87(2)(b) might have asked him for his name and shield once he was in the van, but PO Kyriannis could not recall this specifically. Prisoners generally do ask PO Kyriannis for his name and shield, which he always provides.

PO Kyriannis did not see any officers go inside § 87(2)(b) SUV. PO Kyriannis did not remember § 87(2)(b) complaining about officers going inside his SUV. PO Kyriannis did not know of a PBA card being recovered on or near § 87(2)(b)’s SUV.

Witness Officer: PO David Gonzalez

- *PO Gonzalez was § 87(2)(b) old at the time of the incident. He is a Hispanic male who is bald and has hazel eyes. He is 5’5” tall and weighs 180 pounds.*
- *PO Gonzalez worked from 10:35 pm on April 16, 2009 to 7:10 am on April 17, 2009. He believed he was in plainclothes, but he was not certain. He was assigned to a Catch Car in the SNEU set. It was an unmarked vehicle. PO Gonzalez did not recall what kind of unmarked vehicle he was assigned to and did not know the vehicle number. He worked with PO Keno Chambers.*

Interview Statement

PO David Gonzalez and PO Keno Chambers received a radio call that they were to arrive at 98th Street and Lexington Avenue. When PO Gonzales and PO Chambers got to the location, there were already civilians in handcuffs and other officers at the location. PO Gonzales and PO

Chambers, after surveying the situation, got back in their car and when back on patrol. They were at the location for approximately 3-5 minutes.

PO Gonzales recalled that PO Kyriannis and PO Brandi Sanchez were at the location when he arrived. PO Gonzales did not recall which other officers may have been in the location. A prisoner van was at the location, but that was the only vehicle that PO Gonzales could definitively recall as being at the location.

Witness Officer: PO Keno Chambers

- *PO Chambers was § 87(2)(b) old at the time of the incident. He is a black male with black hair and brown eyes. He is 6'0" tall and weighs 260 pounds.*
- *PO Chambers worked from approximately 11:00 pm on April 16, 2009, to approximately 7:00 am on April 17, 2009. (He did not have his memobook for the interview.) PO Chambers was working SNEU with PO Gonzalez. PO Chambers was in plainclothes. PO Chambers was working out of an unmarked vehicle, but he did not recall which.*

Interview Statement

PO Chambers explained that he was part of a Catch Car on the day in question, but that there was more than one Catch Car on the day in question. PO Chambers did not know who was in the Catch Car on the day in question. PO Chambers had no recollection of being at 98th Street and Lexington Avenue on the night in question.

Witness Officer: PO Marcelino Alvarez

- *PO Alvarez was 34 years old at the time of the incident. He is a Hispanic male with brown hair and brown eyes. He is 6'0" tall and weighs 195 pounds.*
- *PO Alvarez worked from 2:00 PM on April 16, 2009 to 7:10 AM on April 17, 2009. He was in plainclothes and was wearing all black – black hoodie, black pants and black boots. He was assigned to an observation post. He was working on foot. PO Alvarez did not recall who his partner was.*

Interview Statement

PO Alvarez stated he did fill out the arrest paperwork related to the arrest listed in his memobook, but that he did that at the 23rd Precinct Station House, after the incident had already concluded. PO Alvarez was not at the scene of arrest.

Witness Officer: PO Gilberto Ortiz

- *PO Ortiz was 34 years old at the time of the incident. He is a Hispanic male with black hair and brown eyes. He is 5'10" tall and weighs 215 pounds.*
- *PO Ortiz worked from 10:35 pm on April 16, 2009, to 7:10 am on April 17, 2009. PO Ortiz was working at a SNEU observation post with PO Alvaerz. PO Ortiz was in plainclothes. PO Ortiz was working on foot.*

Interview Statement

PO Ortiz stated that he had no recollection of being at the location, 98th Street and Lexington Avenue. PO Ortiz explained that the SNEU team divides up the arrest processing, and so it would have been possible that he was never at the location, but was an officer who did arrest processing at the Station House.

NYPD Document(s)

Vehicle Confirmation from Fleet Services

Vehicle number § 87(2)(b) is a 2007 Chevy Impala (encl. 32V)

Summons/Arrest for Incident and Disposition

- On § 87(2)(b), § 87(2)(b) and § 87(2)(b) pled guilty to Criminal Possession of Marijuana in the 5th Degree § 87(2)(b) (encl. 30B-D).
- § 87(2)(b)
- § 87(2)(b)

Status of Civil Proceedings

- Neither § 87(2)(b) or Jr has filed a Notice of Claim with the City of New York as of January 29, 2010 with regard to the incident. (encl. 29A)

Civilian(s) Criminal History

- As of January 29, 2010, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) or § 87(2)(b)

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b)

Subject Officer(s) CCRB History

- Sgt. Skretch has been a member of the service for 9 years and there are no substantiated allegations against him. However, he is currently also a subject officer in CCRB case 200903387. (encl. 2C)
- PO Ruiz has been a member of the service for 4 years and there are no substantiated CCRB allegations against him. However, he is currently also a subject officer in CCRB cases 200813153 and 200903387. (encl. 2A).
- PO Sanchez has been a member of the service for 5 years and there are no substantiated CCRB allegations against her. (encl. 2B).

Conclusion

Identification of Subject Officer(s)

Sgt. Skretch was the officer who made the initial observation of possible marijuana use and the highest ranking officer of the SNEU set. Sgt. Skretch instructed the other members of the SNEU team to stop the civilians. § 87(2)(g)

§ 87(2)(b) stated that a Hispanic male officer in plainclothes who initially arrived at the scene got out of a gray Chevy Impala and searched § 87(2)(b) vehicle. PO Ruiz is a Hispanic male officer. According to his own testimony, PO Ruiz was in plainclothes and was assigned to a gray Chevy Impala, which had vehicle number § 87(2)(b) and which was the first vehicle to arrive at the arrest location. Furthermore, PO Rosario, who was the other officer assigned to

vehicle § 87(2)(b) is female, making it highly unlikely that she would be confused with PO Ruiz.

§ 87(2)(g)

§ 87(2)(b) stated that the same officer who searched his car also refused to provide his name and shield. Therefore Allegation C, refusal to provide name and shield, is pleaded against PO Ruiz.

§ 87(2)(b) stated that a female Hispanic officer, who was short, with her hair in a pony tail, and who was in uniform, wearing an NYPD windbreaker, and who had gotten out of a marked car, also refused to give him her name and shield. The investigation has determined that this officer was PO Brandi Sanchez. There were only two female officers at the scene, PO Rafaela Rosario and PO Brandi Sanchez. PO Rosario is 5'9" tall, which is not short. PO Rosario was wearing plainclothes and got out of an unmarked vehicle. This does not match § 87(2)(b)'s description.

PO Sanchez, on the other hand, is only 5'1" tall. Furthermore, she got out of a marked van, which is similar to a marked RMP and could be confused for a marked RMP. Moreover, though PO Sanchez herself stated she was wearing plainclothes, she could not recall specifically what she was wearing. Her partner, PO Kyriannis, was able to clarify that both he and PO Sanchez were wearing NYPD tactical jackets over their plainclothes, which is almost certainly what § 87(2)(b) identified as an NYPD windbreaker, and which could easily cause a civilian to believe that the officer was in uniform, since the jacket clearly identifies the wearer as working with the NYPD. § 87(2)(g)

§ 87(2)(b) said that a white female in uniform refuse to provide him with her name and shield. This allegation is also pleaded against PO Sanchez because, as discussed above, only one of the two female officers at the location could be confused for being in uniform. Moreover, PO Sanchez has a light skin tone, making it very possible that § 87(2)(b) confused her for white. Lastly, § 87(2)(b) described PO Sanchez as 5'4" tall, which is relatively short and which more closely matches PO Sanchez's height as compared to PO Rosario's height.

§ 87(2)(g)

Lastly, § 87(2)(b) stated that an officer who took his son's PBA card also refused to provide his name and shield. § 87(2)(b) identified the officer who took his PBA card as the same officer who searched his car. This officer is PO Ruiz. § 87(2)(g)

Officers Not Interviewed

PO Ruiz stated that sometime during the incident, unknown officers from an unknown command pulled up in an unmarked Crown Victoria. PO Ruiz stated that these officers did not get involved in the incident. § 87(2)(g)

Allegations Not Pleased

§ 87(2)(b) claimed that PO Ruiz seized his PBA cards. § 87(2)(g)

§ 87(2)(b) claimed that someone told her that PO Rosario pointed a gun at her, but that she did not see it herself. § 87(2)(g)

§ 87(2)(b) claimed that an officer pushed him lightly to move him away from the arrestees. § 87(2)(g)

Lastly, while both § 87(2)(b) and § 87(2)(b) stated that PO Ruiz and PO Sanchez refused to provide their names and shield numbers to each of them, these allegations have not been broken up into four separate allegations. Rather, PO Ruiz's alleged refusal to provide his name and shield to both § 87(2)(b) and § 87(2)(b) is incorporated into Allegation C, and PO Sanchez's alleged refusal to provide her name and shield to both § 87(2)(b) and § 87(2)(b) is incorporated into Allegation D.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Timothy Skretch stopped § 87(2)(b)

It is undisputed that officers from the 23rd Precinct stopped § 87(2)(b). The question is whether they had the reasonable suspicion necessary to do so.

According to Kamins' *New York Search and Seizure*, "Before a person may be stopped in a public place, the officer must have a reasonable suspicion that the person is committing, has committed, or is about to commit a crime." (2.04[1], encl. 1A-B)

Sgt. Skretch watched § 87(2)(b) and others for approximately fifteen minutes, during which time he witnessed behavior consistent with drinking alcohol in public view and behavior consistent with smoking marijuana.

§ 87(2)(b) description of his and his friends' actions before they were stopped does conform to the description provided by Sgt. Skretch, aside from the fact that § 87(2)(b) denied participating in any illegal behavior.

Moreover, when PO Ruiz approached the situation, he witnessed the two females § 87(2)(b) and § 87(2)(b) attempting to conceal the objects that Sgt. Skretch had earlier described as likely being marijuana.

§ 87(2)(g)

Allegation B – Abuse of Authority: PO Ramiro Ruiz searched § 87(2)(b) vehicle.

§ 87(2)(b) alleged that PO Ruiz went inside his vehicle and searched the compartments contained therein.

§ 87(2)(g) § 87(2)(b) was not operating or inside of his vehicle at the time of his arrest. Nor was § 87(2)(b)'s vehicle seized as part of the arrest § 87(2)(g)

The question is whether PO Ruiz did enter the vehicle.

The other potential witnesses to this allegation stated the following:

- § 87(2)(b) did not make this allegation, § 87(2)(g)
- PO Ruiz did not see any officer search any cars at the location, nor did he himself do so.
- PO Sanchez stated that an individual was upset about a particular car being searched, but when she arrived, that car had already been searched – she was searching around other nearby vehicles, but not inside of them.
- PO Rosario did not recall any officers searching a vehicle at the location.
- PO Kyriannis did not see any officers go inside § 87(2)(b) SUV. PO Kyriannis did not remember § 87(2)(b) complaining about officers going inside his SUV.

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Ramiro Ruiz refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)

Allegation D – Abuse of Authority: PO Brandi Sanchez refused to provide her name and shield number to § 87(2)(b) and § 87(2)(b)

For each of these allegations, none of the officers have any recollection of them taking place – or the officers denied that they took place. Moreover, the investigation was not able to obtain any in-person, detailed, corroborative statements from any of the other potential civilian witnesses at the location. § 87(2)(g)

Team: _____

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Investigator: _____
 Signature _____ Print _____ Date _____

Supervisor: _____
 Title/Signature _____ Print _____ Date _____

Reviewer: _____
 Title/Signature _____ Print _____ Date _____

Reviewer: _____
 Title/Signature _____ Print _____ Date _____